

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3582 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

A B DESAI

Versus

GOVT OF GUJARAT

Appearance:

None present for Petitioners
None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/02/98

ORAL JUDGMENT

Perused the Special Civil Application.

2. The petitioners, the Executive Engineers in the Irrigation Department, R & B Department, and N.D.D., Sachivalaya, Gandhinagar, filed this Special Civil Application before this Court and prayers have been made that the respondents may be directed to grant the petitioners, deemed date of appointment with effect from 1968 in the cadre of permanent Deputy Engineers, Class II

and accordingly fix the pay and other benefits.

3. The case of the petitioners is that though they have been selected for the post of Deputy Engineer in the year 1968, their appointments were delayed till 1972 without there being any fault on their part. On 2.2.72, the appointment orders were issued to the petitioners containing stipulation in clause 12 therein that their seniority shall be determined on the basis of the decision in Special Civil application No.1418 of 1971 and 957 of 1970. Those two Special Civil Applications came to be decided by this Court and the result in those petitions was in favour of petitioners. Another petition has been decided by this Court, being Special Civil Application No.239 of 1984 which was also in favour of the petitioners and that decision of the learned single Judge has also been confirmed by Division Bench in L.P.A. No.127 of 1984. The petitioners have stated in the Special Civil Application that as per the decisions of this Court, which are based on the decision of the Hon'ble Supreme Court, their appointments on the post of Deputy Engineer should have been made with reference to the dates of selection and not the dates of appointment, and as such further consequential benefits have to be given to them.

4. In this Special Civil Application, it is sorry state of affairs that none of the respondents have filed reply. So the averments made in this Special Civil Application stand uncontroverted. Not only this, nobody is present on their behalf to assist the Court. However, the petitioners have also not stated the latest position in the matter. There is all possibility that during this period, the grievance made by petitioners would have been redressed by respondents or otherwise their grievance would have come to an end. It is the duty of the petitioners in service matters to bring on record all subsequent events which have taken place during the interregnum and further to specifically state before this Court what precisely now their grievance survives. That also has not been done by petitioners in this case.

5. Taking into consideration the totality of the facts of this case, interest of justice will be met in case this Special Civil Application is disposed of with directions to the respondent No.1 to decide the grievance made by petitioners in this Special Civil Application, by taking it to be a representation within a period of three months from the date of receipt of writ of this order. In case the petitioners so desire, they may be given an opportunity of personal hearing. In case during this

period, the grievance of the petitioners have already been redressed or no grievance of the petitioners survive, then this exercise is not required to be undertaken by respondent No.1. In case where this exercise has to be undertaken in compliance of this order, a reasoned order may be passed and a copy of the same may be sent to the petitioners by registered post A.D. The Special Civil Application and Rule stand disposed of accordingly. No order as to costs.

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(sunil)